

Long Island Sound LNG Task Force

Created by Governor M. Jodi Rell

Senator Len Fasano, Co-Chairman ■ Senator Andrea Stillman, Co-Chairman



March 13, 2008

Lieutenant Governor David Paterson
Office of the Lieutenant Governor
State Capitol
Albany, NY 12224

Dear Lieutenant Governor Paterson:

The undersigned Connecticut legislators are the bipartisan co-chairs of the Long Island Sound LNG Task Force ("Task Force"). On August 5, 2005, this Task Force was created by Governor M. Jodi Rell by Executive Order 9, attached hereto, in response to the proposal by Broadwater Energy LLC ("the Broadwater Project") to construct and operate a floating storage and regasification unit (FSRU) for liquefied natural gas (LNG) in Long Island Sound.

Following 2 ½ years of intense study, including the review of more than 300 documents and written public comments, 16 public hearings, and testimony from our region's leading environmental science experts, the Task Force has concluded the following:

1. The Federal Energy Regulatory Commission (FERC) has failed in its obligation to the public to protect Long Island Sound by failing to perform a fair, accurate and detailed analysis of the potential environmental impact of the Broadwater Project.
2. FERC's narrow and inaccurate review of the alternative natural gas energy sources irresponsibly concludes that the Broadwater Project is the only option to provide more natural gas to Connecticut and New York.
3. There are viable alternatives to provide New York with the natural gas it needs and these alternatives will be up and running well before Broadwater is scheduled to be on line.

For these reasons, detailed below and in the attached reports, the members of this Task Force strongly urge the State of New York to reject the Broadwater Project.

On March 8, 2006, the Task Force issued its first report entitled "INTERIM REPORT OF THE LONG ISLAND SOUND LNG TASK FORCE" ("Interim Report"). This report outlined a series of issues and concerns that the public and the Task Force wanted FERC to address in its Draft Environmental Impact Statement ("DEIS").

The Task Force, upon the issuance of the DEIS by FERC, began multiple public hearings to review FERC's findings. This review included testimony from environmental science experts experienced in the ecology of Long Island Sound, as well as experts who have studied the financial considerations of building an LNG facility in the middle of Long Island Sound. These experts testified about the potential impact Broadwater could have on our environment, public safety, and marine life (enclosed, please find a list of experts who testified before the Task Force).

The Task Force also focused on regional energy concerns and concluded there are realistic and substantive alternative energy sources to the Broadwater Project that can service both Connecticut and New York. These findings were published in detail in a report entitled, "LONG ISLAND SOUND LNG TASK FORCE RESPONSE TO FERC'S DRAFT ENVIRONMENTAL IMPACT STATEMENT" ("Response Report"), dated January 23, 2007 (also enclosed).

The Task Force later determined that FERC's Final Environmental Impact Statement ("EIS") issued in January of 2008 failed to substantively address the environmental concerns raised by the Task Force's Response Report. While FERC reviewed almost all of the concerns raised by the Task Force, the commission performed, at best, superficial analysis on those issues. Questions remain as to the method and manner in which FERC performed its alternative energy source analysis and the Task Force remains concerned over the critical unresolved environmental issues raised by experts and outlined in our report.

Finally, and most importantly, while recognizing New York's need to ensure its natural gas energy needs are met now and in the future, the Task Force has concluded that a fair and thorough analysis of alternative energy sources will prove that the energy needs of New York can be obtained now and in the future without the Broadwater Project.

To illustrate this point, we have outlined the Task Force's analysis of existing and new energy alternatives to the Broadwater Project. We have also attached to this letter a list of environmental concerns and other questions which FERC still has failed to address (see Attachment A).

ALTERNATIVE SOURCES OF ENERGY TO NEW YORK

FERC'S CONCLUSION THAT THERE IS NO VIABLE ALTERNATIVE ENERGY SOURCE TO BROADWATER IS WRONG AND ITS ANALYSIS IS BIASED. FERC RESTRICTED ITS ANALYSIS OF THE ALTERNATIVES IN ORDER TO ACHIEVE A PREDETERMINED RESULT.

First, FERC's report intentionally and unfairly narrows the nature, purpose and scope of the Broadwater proposal in order to substantiate its desired conclusion – i.e.

FERC starts with the answer and then frames the question. FERC states Broadwater's objective and need:

"The proposed Project would reduce the region's future need for additional transportation infrastructure (new or expanded interstate natural gas pipelines), facilities that have been difficult to build in the region." (EIS 1-4)

Moreover, when FERC examined alternative energy sources, FERC compared the alternatives to the specific details of the Broadwater project.

"Alternatives were evaluated against the stated purpose and need of the Project, as described in Section 1.1. [quoted above] The purpose of the Project is to establish an LNG marine terminal capable of receiving imported LNG from LNG carriers, and storing and regasifying the LNG at an average send out rate of 1.0bcf/d." (EIS 4-1)

Therefore, from the commencement of FERC's analysis of the alternatives, FERC disregarded any actual or any potential increase in the natural gas supply resulting from upgrades to the existing pipeline system and/or from the other new LNG facilities. Moreover, FERC eliminates any alternative that cannot input 1.0bcf/d of natural gas into the system, again demonstrating FERC's narrow and limited analysis.

Second, FERC's analysis is not based upon the need or even the demand for natural gas in the region but rather upon an artificial number (1bcf) that has no verification or substantiation with respect to the region's energy demand. This fact was also recognized by Synapse Energy Economics, Inc. ("Synapse") in its March 2, 2006 Final Report on the Broadwater Project.

The Broadwater terminal would have a base import capacity of 1.0 bcf/d, and the project documents consider alternatives only to the extent that these alternatives are capable of providing this same quantity of natural gas to the region. This line of reasoning is specious; nowhere in these documents or in any other study is a requirement for this quantity of natural gas substantiated for the target market. The Broadwater project is designed to serve a much broader market, financially if not physically. The primary attraction of locating an import terminal in Long Island Sound is not that it addresses the supply requirements of the local market. It is that by injecting gas in this downstream position in the pipeline system, the facility would have access to high-priced gas markets anywhere in the eastern United States. (Synapse March 2, 2006 report page 5)

In addition, the Synapse report states:

Among the dozen or so proposed LNG import terminals on the east coast of North America, there are many that do not raise the local environmental concerns that accompany the Broadwater proposal and that would just as effectively serve this

market. Most notable are the two LNG terminals already under construction in Eastern Canada, coupled with the Phase IV upgrade of the Maritimes and Northeast pipeline to serve the northeast U.S. markets. Because these facilities would be located “downstream” of the load centers in New England, they will free up gas supplies and increase deliverability throughout the region. (Synapse March 2, 2006 report page 15)

Third, FERC failed to examine the concept of “set-off.” By virtue of certain upgrades to the existing regional pipeline system coupled with the new LNG facilities coming on-line, available natural gas supplies will increase across the area north of New York. Therefore, a substantial portion of the natural gas which now passes through New York en route to the New England states will become available for use in New York. In other words, with significant natural gas being introduced at the end of the pipeline, by such projects as Canaport (Respol), Weaver’s Cove (Fall River), Neptune and Northeast Gateway, gas which now flows to these areas from New York will now become available for New York. In addition FERC does not take into account new LNG facilities to the south of New York, such as Crown Landing, which will enhance the natural gas to New York.¹

It is undisputed that the Phase IV upgrade of Maritimes and Northeast in 2007 as well as 2008 and 2009, which have received most if not all of the required approvals, will result in a significant increase in the amount of additional natural gas through the Iroquois Pipeline and into New York. This increase will be equivalent to almost 400 mcf/d, which is nearly half of what the Broadwater Project would generate.²

NEW YORK WILL HAVE A SUFFICIENT NATURAL GAS SUPPLY WITHOUT THE BROADWATER PROJECT³

There is no evidence that 1.0bcf/d of natural gas is needed to meet the energy demands of New York. The Iroquois gas line serves two key areas in New York: 1) Con Edison in Hunts Point, and 2) Northport and South Commack for KeySpan. These areas are the terminus points of the Iroquois system.⁴ There is no evidence to support the need for 1.0bcf/d for this area. And all evidence suggests that the additional 400 mcf/d to be delivered to the Iroquois gas line as the result of the upgrades and additional new LNG facilities would be more than sufficient to fulfill the needs of this area for the immediate future and further, without the beneficial effects of the “set-offs.”

¹ FERC never mentioned LNG facilities south of New York in its analysis of natural gas needs in New York.

² Iroquois Gas Transmission System, L.P. 2007 Producer/Marketer/LDC Customer Meeting, April 10-12, 2007

³ This letter is addressing the issue of New York only. Clearly, even FERC admits that there is enough natural gas in Connecticut without the need for the Broadwater Project. (EIS sections: 4-23, 4-27 and 4-11,)

⁴ There is also a possibility of branching off of the Iroquois gas line to serve the facility known as Shoreham (a solution that would solve any concerns over the stalled Islander East Project).

On October 7, 2005, The Iroquois Gas Transmission System ("IGTS") sent a letter to FERC explaining these concerns which still have not been addressed:

"Iroquois understands that Broadwater's intent is to deliver approximately 1BCF on a steady state basis at a very downstream point on the Iroquois system. The most significant issue of concern to Iroquois at this time is the lack of information regarding the location of anticipated deliveries of the LNG to be supplied by Broadwater. ...Nor is there any indication as to whether the deliveries would represent incremental load for the Iroquois system. In this respect, to date, *Iroquois has not been contracted to supply any firm deliveries of the LNG to be delivered by Broadwater, and Iroquois is not aware that any of its existing firm customers have contracted for the LNG.*" (Iroquois letter Oct. 7, 2005, emphasis added)

If IGTS is the sole supplier of natural gas to the area in question and is unaware of existing customers who are in need of more natural gas or demanding more natural gas, then it seems the natural gas need in this area is met. Nevertheless, IGTS has already prepared the line for the additional 400 mcf/d of additional gas to the area should demands increase over the next 15 to 20 years.

Finally, the FERC report gratuitously excluded a major LNG facility which will have a direct benefit to New York in the future. BlueOcean, which is proposed to be located off the coast of New Jersey, will supply 20% more LNG than Broadwater, would be closer to New York and most importantly can service many more areas than the Broadwater Project can serve at the end of the Iroquois pipeline. While Blue Ocean will not be on-line for some time, it has very little opposition and would be supported by the Connecticut Attorney General.

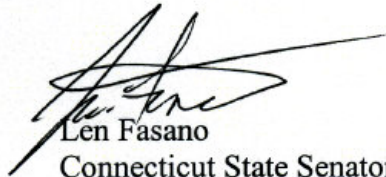
CONCLUSIONS:

FERC's analysis was wrong and purposely misleading. This contrived analysis resulted in a self-fulfilling prophecy. By manipulating the framework of the question, the only possible answer was Broadwater.

New York has a true and legitimate responsibility to assure its businesses and citizens that their natural gas needs will not be jeopardized if the Broadwater Project does not proceed. The fact is New York's natural gas needs will not be jeopardized. The upgrades on various projects in and out of Connecticut will pump approximately 400 to 500 mcf/d of additional natural gas through the Iroquois gas line and into New York, and this amount will be further enhanced by the output of other new and proposed LNG facilities. By all accounts the additional natural gas cited above is enough to meet the needs of New York through 2015 and beyond. However, in addition to the above, the "off-set" caused by the reduction of natural gas that currently flows out of New York to Connecticut and points north will result in even more natural gas available to New York.

The Connecticut Long Island Sound LNG Task Force strongly urges the State of New York to reject the Broadwater project.

Sincerely,



Len Fasano
Connecticut State Senator, 34th District
Co-Chair LIS LNG Task Force



Andrea Stillman
Connecticut State Senator, 20th District
Co-Chair LIS LNG Task Force

cc: Lieutenant Governor David Paterson
Senator Chris Dodd
Senator Joseph Lieberman
Senator Hillary Clinton
Senator Chuck Schumer
Congresswoman Rosa DeLauro
Congressman Joe Courtney
Congressman John Larson
Congressman Christopher Murphy
Congressman Christopher Shays
Congressman Charles B. Rangel
State Senator Joseph L. Bruno
State Senator Owen H. Johnson
State Senator Frank Padavan
State Senator Dean G. Skelos
State Senator Hugh T. Farley
State Senator Mary Lou Rath
State Senator Thomas P. Morahan
State Senator Malcolm A. Smith
State Senator Jeffrey D. Klein
State Senator Thomas K. Duane
State Senator William T. Stachowski
Speaker Sheldon Silver
Assemblyman Ron Canestrari
Assemblyman James Tedisco
Assemblyman Brian M. Kolb
Secretary of State Lorraine A Cortés-Vázquez, NYSDOS
Mr. Daniel E. Shapiro, First Deputy Secretary of State, NYSDOS
Commissioner Alexander B. Grannis, NYSDEC
Mr. John J. Ferguson, Division of Environmental Permits, NYSDEC

Attachment A

OUTSTANDING ENVIRONMENTAL CONCERNS

The Task Force's expert Dr. Peter Auster summarized the findings in the DEIS:

"The document was poorly researched. Without suggesting any type of motivation, I thought that the authors kind of glommed over a number of issues using a minimal amount of literature, analysis or synthesis about literature to conclude that there were minimal impacts in some, in many of the areas."

-- Dr. Peter Auster December 7, 2006

Dr. Auster's quote is indicative of all of the comments received by the Task Force from the experts who testified at our environmental public hearings. FERC failed to improve upon the deficiencies of the DEIS. However, of equal importance, is the fact that FERC was unable and unwilling to demonstrate the moral fortitude to protect the public interest and affirm its legal obligation to fully and carefully review projects within its domain.

Regrettably, FERC paid little regard to its environmental responsibility. Here are a few examples of FERC's disingenuous response to concerns raised by our Task Force, as well as by the people of Connecticut and New York:

1. FERC used olds maps (example: shellfish and lobster distribution is wrong);
2. FERC used old data;
3. FERC did not use the best available science in reviewing the environmental effects;
4. FERC used wrong data for distribution analysis for certain marine habitats and fishes as well as marine mammals;
5. FERC used wrong data regarding bird feeding and bird breeding areas;
6. FERC conducted a superficial geology report as it relates to organisms;
7. no regard for the Stratford unique structure and marine community;
8. no follow-up work by FERC upon receiving the Task Force's comments;
9. no separate analysis of recovery in the area of the Stratford Shoals;
10. no analysis of the effects of underwater construction noise on fish or mammals (other than broad generalities);
11. no analysis of stationary noise on fish or mammals,
12. very poor analysis of migrating birds and the effect upon those birds (without using notable resources);
13. the report states that "...[t]he roseate tern (*Sterna dougalli*) is uncommon in Long Island Sound..." without acknowledging said bird is a threatened species;
14. FERC's attempt to take into account seismic activity lacks any foundation or for that matter a meaningful conclusion;
15. FERC ignored potential thermal dynamic effects;

16. the adverse affect to marine life of water being recycled through the FSRU and LNG carriers (also raised by NYCOE).

The above is **only a small sample** of the many inaccurate and irresponsible methods used by FERC in the DEIS and FEIS to either avoid the inevitable conclusion that the Broadwater Project has significant environmental problems or because this federal agency lacks the ability to perform the fundamental task of an accurate environmental review. Nevertheless, if these environmental concerns remain outstanding and the project proceeds, the potential for severe and irreparable damage to Long Island Sound and its mammal and other marine communities will be felt for generations to come. Without a detailed analysis of the environmental impact of the Broadwater Project, FERC is negligently ignoring its obligation to the citizenry of New York and Connecticut and also its obligation to protect this estuary of national significance.

CONCLUSION:

The environmental harm to Long Island Sound is certain. The degree of the environmental harm has not been fully analyzed. Such a result is more than unacceptable, it is egregious.

In addition to the environmental concerns which are left unanswered, there will be an adverse impact on Long Island Sound's recreational, fishing and commercial activity. This Task Force is concerned over the lack of analysis performed by FERC to determine the full effect of all of the above concerns. Clearly, FERC, in its rush to achieve the goal they set out to achieve, produced a sloppy, error filled report to justify its own needs.